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county attorney

January 3, 1992

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**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Hon. Dan Morales  
Attorney General of Texas  
Supreme Court Building  
P.O. Box 12548  
Austin, Texas 78711-2548

Attention: Madeleine B. Johnson  
Opinion Committee

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Opinion Committee

Ladies and Gentlemen:

Harris County and Harris County Flood Control District have requested advice regarding whether each has the right to use right of way acquired by the other.

Please supply us with your opinion on the following questions:

1. Does the Harris County Flood Control District have a statutory right to extend ditches across all roads within Harris County, consistent with the rights found to exist in the case of Tennessee Products Pipeline Co., as cited in the attached brief?
2. Is there any authority which would allow Harris County the right to cross, for road purposes, land owned in fee or easement by Harris County Flood Control District without first obtaining written permission from such District?
3. If a written instrument to cross District property by the County is required, must the County pay the District the fair market value as determined by an appraisal, as apparently required by §272.001(b)(6) of the Local Government Code?
4. Would execution by the District of an agreement granting to the County joint use rights in its property constitute a violation of Article III, Section 52 of the Texas Constitution?

Hon. Dan Morales  
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A memorandum brief is enclosed.

Yours very truly,

MIKE DRISCOLL  
County Attorney

*Linda J. Minor*

By LINDA J. MINOR  
Assistant County Attorney

MD:LJM

Attachment